

# CITY of BEAVERTON

## PRESS RELEASE

**Contact:** Amy Miner, Public Information Manager  
(503) 526-3737 / (503) 849-1247 / [amminer@ci.beaverton.or.us](mailto:amminer@ci.beaverton.or.us)



## OREGON COURT OF APPEALS AFFIRMS LAND USE BOARD OF APPEALS DECISION ON ANNEXATION

**Beaverton, Oregon (March 9, 2009 – with correction)** – On March 4, 2009, the Oregon Court of Appeals decided three combined cases regarding the annexation in April 2005 by the City of Beaverton of Leupold & Stevens' manufacturing site on Greenbrier Parkway.

The Court found that an Oregon law enacted later in 2005 could be applied retroactively to make this annexation void without the property owner's consent. That law was directed to certain businesses sited on industrial-zoned property. Leupold's site includes a vacant, residential zoned area that it purchased to provide a buffer between its factory and residential areas. The court held that as Leupold does not occupy the residential zoned area, the new law made its factory site exempt from annexation without its consent.

The Court also ruled that the state trial court should not have dismissed the two cases that Leupold filed in that court also seeking to reverse the annexation. Those cases were dismissed when the trial court ruled that Leupold should challenge the annexation using the local land use decision process.

"This decision confuses the jurisdiction between the land use board of appeals (LUBA) and the circuit courts which could have lasting impacts for boundary decisions for local governments across the state," said Beaverton City Attorney Alan Rappleyea.

The most recent decision, to allow an annexation to be challenged in trial court in addition to LUBA, follows seven prior decisions affirming the city's position that annexations are land use decisions. The property owner first challenged the annexation at LUBA based on a different statutory exemption. LUBA and the Court of Appeals previously rejected that challenge and affirmed the annexation. The Court of Appeals' decision granting the boundary change petition affirms that a boundary change process was appropriate.

The City of Beaverton will evaluate the effect of these decisions and whether to seek review of this decision in the Oregon Supreme Court. A petition for review must be filed by April 8, 2009.

Questions about this case should be directed City Attorney Alan Rappleyea at (503) 526-2215.

###